

STAMP AND RETURN

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED

JUN 18 2007

Federal Communications Commission
Office of the Secretary

In the Matter of)	
)	
DTV Build-Out)	FCC 07-91
)	
Applications Requesting Extension of the)	
Digital Television Construction Deadline)	
)	
Station KCET-DT, Los Angeles, California)	BEPEDT-20060123AFG

To: The Commission

PETITION FOR RECONSIDERATION OF COMMUNITY TELEVISION OF SOUTHERN CALIFORNIA

Community Television of Southern California ("CTSC"), licensee of non-commercial, educational public television Station KCET, Los Angeles, California, respectfully submits this Petition for Reconsideration of the Commission's denial of its request to extend the deadline for construction of the above-captioned DTV facilities.¹ As shown below, the Commission's decision denying that application was predicated on (i) an erroneous belief as to the facilities proposed by Station KEYT-DT, Santa Barbara, CA, ("KEYT"); and (ii) a misunderstanding of the effect on KEYT that would result if CTSC's request is granted.

¹ *In re DTV Build-Out: Applications Requesting Extension of the Digital Television Constr. Deadline*, Order, FCC 07-91, ¶¶ 88-89 & App. D (rel. May 18, 2007). Since this Petition is filed within 30 days of the release of that Order, this Petition is timely.

As indicated in CTSC's extension application² and its Comments on the October 2006 DTV Table of Allotments,³ grant of its extension application and construction of the facilities in the underlying construction permit will not result in impermissible interference to KEYT if KEYT constructs replicating post-transition DTV facilities, as KEYT has certified it will do in its FCC Form 381 and has confirmed in its request for a waiver of the "use-or-lose" deadline. Rather, granting CTSC's request will serve the public interest by permitting additional viewers in the expanding Los Angeles metropolitan area to receive KCET's free, over-the-air, high-quality public television programming and services without causing harm to any other station.

Moreover, even if the Commission were to determine, notwithstanding KEYT's certification, that KEYT retains interference protection for a maximized facility, grant of CTSC's request will not result in any interference to KEYT because CTSC requested the extension to preserve its ability to construct, should KEYT ultimately build facilities with which KCET would not interfere. Accordingly, the Commission should reconsider its decision denying CTSC's extension request and grant that application.

² See Application of Community Television of Southern California for an Extension of Time to Construct a Digital Broadcast Television Station, BEPEDT20060123AFG, Explanation for Requesting Construction Permit Extension (filed Jan. 24, 2006).

³ See Statement of Hammett & Edison, Inc., Consulting Engineers at 3, attached to Comments of Community Television of Southern California in MB Docket No. 87-268 (filed Jan. 25, 2007) ("Hammett & Edison Statement"). A copy of that statement is attached as Ex. A.

ARGUMENT

I. The Commission Should Grant KCET'S Request Because It Will Not Cause More Than *De Minimis* Interference to KEYT's Protected Post-Transition Facilities

In June 2005, the Commission notified CTSC that its proposal to construct a DTV facility on Channel 28 with an ERP of 190 kW would cause impermissible interference to KEYT.⁴ In reaching that conclusion, the Video Division apparently evaluated the interference that would be caused to KEYT's post-transition operations based on KEYT's DTV construction permit specifying a 1,000 kW facility.⁵ However, KEYT had abandoned that proposal by the time of the Commission's June 2005 letter, as the November 3, 2004 Pre-Election Certification on Form 381 filed by KEYT specified **replication, not maximized** facilities.⁶

Under the Commission's DTV transition rules and as provided in Form 381, stations were required to elect in that form "how their channel elections should be evaluated for purposes of interference protection analysis."⁷ By certifying that it would construct replication facilities, KEYT abandoned its proposal to construct a 1,000 kW DTV station. Thus, its replication facilities should have been used to determine whether any unacceptable interference would be received. Indeed, KEYT's construction permit for a 1,000 kW station had expired by the time of the Commission's June 2005 letter and, according to the CDBS database, KEYT's application for an extension of time to complete construction of that facility has been dismissed.⁸ Further,

⁴ See Letter from Clay C. Pendarvis, Associate Chief, Video Division, Media Bureau, to Community Television of Southern California (June 7, 2005).

⁵ See Application of Smith Broadcasting of Santa Barbara LP, FCC File No. BMPCDT-20010126ABE (gtd. Sept. 27, 2002).

⁶ See Application of Smith Broadcasting of Santa Barbara LP, FCC File No. BCERCT-20041103AJF.

⁷ Form 381, Section II, Item 1. See also *In re Second Periodic Review of the Comm'n's Rules & Policies Affecting the Conversion To Digital Television*, Report and Order, 19 FCC Rcd. 18,279, ¶¶ 41-42 & n.81 (rel. Sept. 7, 2004).

⁸ See Application of Smith Broadcasting of Santa Barbara LP, FCC File No. BEPCDT-20040324AET (dismissed Feb. 3, 2005).

KEYT confirmed that it is proposing to construct only a replication facility in its request for a waiver of the July 1, 2006 “use-or-lose” deadline, in which KEYT acknowledged that it certified to replication facilities.⁹ The Commission has also recognized that KEYT will construct 698.8 kW replication facilities—Exhibit B to the Commission’s *Seventh Further Notice of Proposed Rulemaking* in the Advanced Television Proceeding¹⁰ indicated that KEYT would operate with an ERP of 698.8 kW, its replication power.¹¹ Consequently, the Commission should evaluate whether CTSC’s maximized facilities will cause impermissible interference to KEYT based on KEYT’s replication allotment, **not** its proposed 1,000 kW facilities.

KCET will not cause any impermissible interference to KEYT’s replication facilities operating with its maximized facility of 190 kW(DA). As CTSC demonstrated in its January 2007 comments in response to the Commission’s *Seventh Further Notice of Proposed Rulemaking* in its Advanced Television proceeding,¹² the proposed KCET 190 kW post-transition facilities are predicted to cause no more than 0.1% additional interference to KEYT’s allotted and certified 698.8 kW replication facilities.¹³ Therefore, KCET’s proposed post-

⁹ See Petition for Waiver of Smith Media License Holdings, Inc., MB Docket No. 03-15 (filed July 7, 2006) (attached as Ex. C to CTSC’s *Comments* in MB Docket No. 87-268). The Petition for Waiver leaves open the possibility that even after the transition, KEYT may be limited to less than 698.8 kW by practical factors. The FCC recently granted KEYT’s waiver request. *In re DTV Build-Out: Requests for Waiver of July 1, 2005 and July 1, 2006 “Use or Lose” Deadlines*, Order, FCC 07-90 (rel. May 18, 2007).

¹⁰ See *In re Advanced Television Sys. & Their Impact Upon the Existing Television Broadcast Service*, Seventh Further Notice of Proposed Rulemaking in MB Docket No. 87-268, 21 FCC Rcd 12,100, Ex. B (2006).

¹¹ See *In re Advanced Television Sys. & Their Impact Upon the Existing Television Broad. Serv.*, Mem. Op. & Order on Recon. of the Sixth Report and Order, 13 FCC Rcd. 7418, App. B (1998). According to the Commission’s ECFS data base, KEYT has not filed any comments suggesting that that information was incorrect.

¹² *In re Advanced Television Sys. & Their Impact Upon the Existing Television Broad. Serv.*, Seventh Further Notice of Proposed Rulemaking in MB Docket No. 87-268, 21 FCC Rcd 12,100 (2006).

¹³ See Hammett & Edison Statement, *supra* note 3. Indeed, KCET could increase its ERP to 302 kW without causing more than 0.1% interference to KEYT’s 698.8 kW facilities. *Id.*

Footnote continued on next page

transition operation satisfies the *de minimis* interference standard with respect to KEYT's protected post-transition operations and is fully consistent with the FCC's DTV rules.

Accordingly, the Commission's finding in its *Order* that CTSC will cause interference to KEYT if it constructs its 190 kW facilities is mistaken. The Commission should reconsider its finding and grant CTSC's extension request.

While CTSC recognizes that it modified its FCC Form 381 to specify replication, it did so only after being advised by the Commission's staff that its maximized proposal would not be approved. Thus, it was faced with the dilemma of (i) electing replication rather than maximization on Channel 28 or (ii) taking its chances on whatever channel might be available in the Los Angeles market in the later rounds of the DTV channel elections. CTSC elected replication, the safer option. However, in doing so, it also expressly reserved the right to seek maximized facilities should circumstances permit—in particular, should KEYT not build its proposed 1,000 kW ERP facilities.¹⁴ Since it now appears that KEYT will not be constructing a 1,000 kW station and that CTSC can maximize KCET's facilities without causing harm to KEYT, the Commission should permit CTSC to take advantage of that opportunity and be allowed to serve a larger population with its high quality educational programming.

Indeed, there is no reason to restrict CTSC to replication facilities when operation with its maximized facilities will not result in any interference to KEYT or any other station.

Footnote continued from previous page

Further, the level of interference to KEYT is less than the 0.5% which the Commission proposed to use for future allotments and modifications in Third Periodic Review. *See In re Third Periodic Review of the Comm'n's Rules & Policies Affecting the Conversion to Digital Television*, Notice of Proposed Rulemaking, MB Docket No. 07-91, FCC 97-70, ¶¶ 103-12 (rel. May 18, 2007).

¹⁴ *See* Comments of Community Television of Southern California, MB Docket No. 87-268, Ex. B (filed Jan. 25, 2007).

Accordingly, the Commission should (a) reconsider its decision denying CTSC's request for an extension of the DTV construction deadline as detailed in File No. BEPEDT-20060123AFG and subsequent CTSC submissions, and (b) grant CTSC's request for an extension of time to construct maximized facilities with 190 kW ERP (DA) on Channel 28.

II. Even Assuming KEYT May Construct a 1,000 kW Facility, the Commission Should Reconsider its Action and Grant KCET an Extension

Even if the Commission were to conclude that KEYT has retained interference protection for its proposed 1,000 kW facilities, notwithstanding KEYT's certification to construct replication facilities, the Commission should grant CTSC's request for an extension of the DTV construction deadline conditioned on KCET not causing more than permissible *de minimis* interference to KEYT's constructed post-transition facilities. CTSC should not be deprived of the opportunity to serve as much of the expanding Los Angeles metropolitan area as possible, nor should it be forced to run the risk that another station would seek to maximize or modify its facilities and force CTSC into a comparative hearing or other competitive allocation process, in the event that KEYT constructs more modest facilities than a 1,000 kW station.¹⁵

CTSC's request for an extension of time to complete construction of maximized facilities made it clear that CTSC was seeking the extension in order to protect its ability to construct such facilities if they would not cause impermissible interference to KEYT's post-transition facilities. As the application stated:

¹⁵ Should the Commission conclude that Section 73.5002(b) of its rules applies, CTSC's application to maximize or modify its facilities filed after the transition could be returned without consideration by the Commission if the application was mutually exclusive with the application of a commercial applicant seeking to improve or modify its facilities. Under Section 73.5002(b), applications for a nonreserved channels filed by noncommercial applicants will be returned if the application is mutually exclusive with an application by a commercial applicant and the applicants cannot work out their differences.

...[I]t is not clear that Smith will construct its full authorized facilities, [and] CTSC believes it does not serve the public interest to limit Station KCET-DT to its replication facilities rather than its maximized facilities if Smith fails to construct its 1 megawatt station. Limiting Station KCET-DT to its replication facilities in these circumstances will only deny free over-the-air public television service to audiences for no offsetting benefit. Accordingly, CTSC requests that the Commission grant CTSC's request to extend its construction permit for maximized facilities . . . in order to assure that the authorization does not lapse while Station KEYT-DT is deciding whether to build its maximized facilities. During this time, CTSC will be able to determine whether it can construct these maximized facilities or such improved facilities as would cause no [impermissible] interference to Station KEYT-DT's operating facilities . . . , or seek such other relief as may be appropriate to improve its facilities.¹⁶

As CTSC noted in its letter reserving its right to seek maximized facilities should KEYT not construct a 1,000 kW station,¹⁷ it believes there is a reasonable possibility that Station KEYT will not, in fact, build 1,000 kW facilities. First, KEYT is licensed to the much smaller community of Santa Barbara, and its analog facilities serve an area smaller than the predicted service area of its 1,000 kW DTV construction permit. Second, its 698.8 kW facility will serve more than 95% of the population served by any 1,000 kW facility. Third, it currently operates limited DTV facilities of 250 kW ERP;¹⁸ and its "use or lose" waiver request indicates that it may not be able to raise its ERP above 250 kW after the DTV transition. Even if KEYT can increase its ERP above 250 kW, how much remains uncertain.¹⁹ Given these factors, CTSC

¹⁶ See Application of Community Television of Southern California for an Extension of Construction Permit, FCC File No. BEPEDT-20060123AFG, Explanation for Requesting Construction Permit Extension (filed Jan. 24, 2006).

¹⁷ Attached as Ex. B.

¹⁸ See File No. BLCDDT-20061102ABJ. The license is sought to cover a modification of KEYT's construction permit, reducing the ERP from 1,000 kW to 250 kW. See File No. BMPCDDT-20060630ACN, modifying File No. BMPCDDT-20010126ABE

¹⁹ Petition for Waiver of Smith Media License Holdings, Inc., MB Docket No. 03-15, at 3 (filed July 7, 2006) (KEYT "believes that at the end of the DTV transition it may be able to increase ERP, but the extent to which the Station could do so presently is not known").

believes there is a real question as to whether or not KEYT will construct a 1,000 kW station, assuming for the sake of argument that KEYT retains interference protection for such facilities. CTSC does not believe it should be denied the opportunity to maximize its facilities if KEYT should decide to build a station with less power, especially since CTSC's request to construct maximized facilities is predicated on not causing impermissible interference to KEYT

Rather, grant of that request will serve the public interest. CTSC has been among the leading television licensees promoting the Commission's goal of moving the U.S. television system to digital since the Commission first authorized DTV stations in 1997.²⁰ It was one of the earliest public television stations to construct its DTV facilities, placing its out-of-core Channel 59 DTV authorization into operation with its full authorized facilities in June 2000,²¹ three years before public television stations were required to complete construction of their interim DTV facilities. Since then, CTSC has been operating with those facilities, providing high definition television and multicast digital programming to the Los Angeles area.²²

Throughout the digital transition, CTSC has steadfastly stated its intention to operate after the transition with maximized facilities and has taken every step possible to preserve that option. In December 1999, CTSC promptly notified the Commission of its intent to maximize its facilities. In April 2000, CTSC filed a request to maximize its DTV facilities. It was granted

²⁰ *In re Advanced Television Sys. & Their Impact Upon the Existing Television Broad. Serv.*, MM Docket No. 87-268, 12 FCC Rcd. 12,809 (1997).

²¹ Station KCET-DT is currently operating from Mt. Wilson with an ERP of 2450 kW. *See* FCC File No. BLEDT-20000626AFV (gtd. July 28, 2000).

²² By way of comparison, KCET currently offers both a high definition digital service, KCET HD, and since March 2007, a Spanish language public television digital multicast service, known as V-me (from the Spanish word *veme*, meaning "see me"). KEYT, in contrast, did not commence any DTV operations until February 2005, and has been operating with a power of 250 kW. *See* FCC File Nos. BDSTA20050127ALX (gtd. Feb. 9, 2005); BMPCDT20060630ACN, gtd. Oct. 5, 2006; BLCDT20061102ABJ (accepted for filing, Nov. 3, 2006.).

a construction permit in April 2003 to operate with an ERP of 340 kW at a HAAT of 913 meters.²³ While CTSC did not build those facilities, primarily because it was operating on a channel it would have to abandon at the DTV transition, it was not required to do so in order to protect its right to operate with maximized facilities after the transition.²⁴

In light of its commitment to DTV, CTSC should not be forced to wait for a filing window to open, with the consequent risk of competing applications and potential return of its application, in order to maximize its post-transition facilities. CTSC has diligently tried to protect its interests throughout this proceeding, and KEYT's delay in the construction of its post-transition facilities—whether through causes beyond its control or otherwise—should not deny CTSC the ability to achieve its public service mission to provide educational programming to its community.

Accordingly, even if the Commission were to conclude that KEYT has retained interference protection for its permitted 1,000 kW facility—notwithstanding its certification that it would build replication facilities and the expiration of its 1,000 kW construction permit—it should grant CTSC's request for an extension of time to construct maximized facilities with 190 kW ERP (DA) on Channel 28. CTSC fully acknowledges that any such grant would be conditioned on KCET not causing impermissible interference to KEYT's constructed post-transition facility.

²³ See FCC File No. BMPEDT-20000428ADF (gtd. Apr. 2, 2003).

²⁴ See *In re Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Mem. Op. & Order, MM Docket No. 00-39, 16 FCC Rcd. 20,594, ¶¶ 28-31 (2001).

CONCLUSION

For the reasons set forth above, CTSC respectfully requests that the Commission reconsider its denial of CTSC's application for an extension of time to construct maximized facilities and grant its request for facilities with 190 kW ERP (DA) on Channel 28 as detailed in File No. BEPEDT-20060123AFG and subsequent CTSC submissions, including the *Hammett & Edison Statement*. CTSC has diligently advanced the Commission's goal of transitioning to a digital television broadcast system. It has offered digital programming for seven years to the second largest television market in the country and currently offers both high definition and digital multicast services to its community, notwithstanding the limited number of digital receivers. CTSC is seeking authority to expand its coverage area after the transition only so long as it will not cause impermissible interference to others. It should not be denied that opportunity.

Respectfully submitted,



Theodore D. Frank
Donald T. Stepka
Arnold & Porter LLP
555 Twelfth Street, N.W.
Washington, DC 20004
*Counsel for Community Television of Southern
California*

June 18, 2007

Exhibit A

Engineering Statement of Hammett & Edison

**Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments**

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Community Television of Southern California (CTSC), licensee of noncommercial TV Stations KCET, N28, and KCET-DT, D59, Los Angeles, California, to prepare an engineering statement in support of its comments to the Seventh Further Notice of Proposed Rulemaking (Seventh FNPRM) to MB Docket 87-268.

Background Information

In the initial Table of DTV allotments, KCET was assigned out-of-core DTV Channel 59, with an effective radiated power (ERP) of 190 kW. CTSC built the allotted and out-of-core D59 transmitting facilities, and has had licensed D59 facilities at 190 kW ERP (DA) since June 26, 2000. Further, CTSC holds a construction permit (CP) for maximized D59 facilities, FCC File Number BMPEDT-20000428ADF, authorizing operation at 340 kW ERP (DA). In its November 3, 2004, FCC Form 381 filing, CTSC specified the equivalent of those maximized facilities for its post-transition operation (which could not be on out-of-core D59). It is noted that because of the 2.5 dB difference in the dipole factor between Channels 59 and 28, the coverage of the maximized DTV operation at 340 kW ERP on D59 is equivalent to 190 kW ERP for operation on D28.

While the October 20, 2006, MB Docket 00-268 Seventh FNPRM assigned KCET-DT its requested post-transition channel of D28, the assigned power level was just 107 kW ERP. It is therefore the purpose of this engineering exhibit to justify the desired and maximized power level of 190 kW ERP (DA) on DTV channel 28.

In its January 21, 2005, Form 382 First-Round channel election, CTSC requested its in-core Channel 28 for post-transition operation. However, this election was initially disapproved because of greater than 0.1% predicted incremental interference to two stations: KFTR-DT, D29, Ontario, California (at 0.2%) and to KEYT-DT, D27, Santa Barbara, California (at 2.3%)*. The KFTR-DT facilities are located at the Mt. Wilson antenna farm, along with KCET and KCET-DT, but the KEYT-DT facilities are 177.5 km distant, at Broadcast Peak, near Santa Barbara.

In its August 15, 2005, *Notice of One In-Core Channel Special Treatment and Waiver Request*, CTSC submitted engineering studies showing that when the KFTR-DT facilities were studied using that station's main beam azimuth pattern† and actual elevation pattern with its combination of 1.5° of

* FCC letter dated June 7, 2005.

† The CDBS shows a station's horizontal plane azimuth pattern; so long as only ebt is used, the main beam and HPLANE azimuth patterns are identical; however, when mbt is used, the HPLANE and main beam azimuth patterns can be significantly different. See the attached Figure 1.

Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments

electrical beam tilt (ebt) plus 1.0° of mechanical beam tilt (mbt) at 200°T, and when the proposed KCET-DT as D28 facilities were similarly studied using the KCET, N28, main beam azimuth pattern and actual elevation pattern with its 1.5° of ebt plus 1.5° of mbt at 195°T, and further when the depression angle to cells under study were correctly calculated based on the station's transmitting antenna height above mean sea level (AMSL) rather than the transmitting antenna height above ground level†, the incremental interference to KFTR-DT dropped to 0.01%. This is not surprising, given that the stations are effectively collocated (there is a separation of only 0.49 km between the two sites) and the stations have comparable powers (KCET-DT as D28 was studied at 190 kW ERP (DA), and KFTR-DT was studied at 400 kW ERP (DA)). Thus, because KCET-DT as D28 would have 3.2 dB less power than KFTR-DT, since the main beam directional antenna patterns are similar, and since the interference criteria for a lower-adjacent channel DTV-into-DTV is a desired-to-undesired (D/U) signal ratio of -28 dB, it is obvious that KCET-DT as D28 is not an interference threat to KFTR-DT. Further, even though the interference criteria for an upper-adjacent channel DTV-into-DTV is a D/U ratio of -26 dB (*i.e.*, 2 dB more stringent), it is also obvious, again because of the collocation, similar antenna patterns, and comparable powers, that the KFTR-DT operation is similarly not an interference threat to KCET-DT as D28. In summary, there is no conflict between KCET-DT as D28 and KFTR-DT, D29.

The August 15, 2005, filing also demonstrated that the true incremental interference to the KEYT-DT, D27, allotment (699 kW ERP), as opposed to the then-existing CP for 1,000 kW ERP (DA), was just 0.59%, well under the relaxed one-in-core channel 2% "*de minimis*" limit. The KEYT-DT D59 allotment rather than the KEYT-DT CP power was studied because in its Form 381 *Pre-Election Certification* Form, KEYT-DT selected "replication" rather than "maximization."

Finally, the August 15, 2005, filing noted that at Paragraph 66 of the January 19, 2001, MB Docket 00-39 rulemaking (the first "DTV review" rulemaking), the Commission acknowledged certain main beam versus horizontal plane and depression angle calculation problems, and indicated that more accurate calculation methodologies could be used where doing so would "make a critical difference."

† There is a particularly significant difference for stations at the Mt. Wilson Antenna Farm between the transmitting antenna center-of-radiation (C.O.R.) height AGL and AMSL. For example, for the KCET antenna, the AGL height is just 100 meters but the AMSL height is 1,825 meters, and for the KFTR-DT transmitting antenna, the C.O.R. height AGL is 79 meters but the C.O.R. height AMSL is 1,820 meters. Similarly, for KEYT-DT, which also has a mountain top site, the AGL C.O.R. height is 24 meters but the AMSL C.O.R. height is 1,252 meters. Especially when UHF transmitting antennas are involved, with their relatively narrow elevation pattern half-power beam widths (HPBW's) of typically 1.5° to 2.0°, the difference between a correctly calculated depression angle to a cell under study (based on the transmitting antenna's AMSL height) and the incorrectly calculated depression angle to a cell under study (based on the transmitting antenna's AGL height) can be significant. For example, for cells in the Los Angeles basin, the correctly-calculated depression angles range from 1° to 3° below the horizontal, whereas basing the depression angle calculation on the station's AGL height gives essentially zero-degree depression angles.

Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments

Because of its use of both ebt and mbt, and mountain top transmitting site with its high AMSL C.O.R. height but low AGL C.O.R. height, KCET-DT is the "critical difference" poster child. Yet, apparently because Commission lacks the software to allow conducting OET-69 interference studies using main beam azimuth patterns and actual elevation patterns (including actual ebt and actual mbt), no relief was forthcoming to CTSC.

KEYT-DT CP To Reduce ERP From 1,000 kW (DA) to 250 kW (DA)

On June 30, 2006, KEYT-DT filed to amend its CP from 1,000 kW ERP (DA) to 250 kW ERP (DA), even though it had certified in its Form 381 filing that it would build replication facilities (*i.e.*, 699 kW ERP (DA)), and even though it had spurned attempts by CTSC to obtain a "consent" letter, wherein CTSC demonstrated that the incremental interference caused by KCET-DT as D28 at 190 kW ERP (DA) to the 1,000 kW ERP KEYT-DT CP had insignificant interference cells falling outside of the Santa Barbara-Santa Maria-San Luis Obispo Designated Market Area (DMA #119).

Furthermore, the June 30, 2006, KEYT-DT application changed the proposed transmitting antenna from a Dielectric Model TFU-24DSB-J (C) directional antenna to an RFT Model CS-2050-SP-24 directional antenna; this impacts the earlier interference studies. As shown by the attached Figure 1, an updated OET-69 post-transition interference study, for KCET-DT as D28 at 190 kW ERP (DA) causes incremental interference of just 0.04% to the KFTR-DT TCD29, and decreased interference of 0.1% to the 699 kW ERP KEYT-DT TCD27. Indeed, as shown by the attached Figure 2, KCET-DT as D28 could increase its main-beam ERP to 302 kW without causing more than 0.1% of incremental interference to the 699 kW ERP KEYT-DT TCD27. Further, and as shown by the attached Figure 2, if the KEYT-DT TCD27 is modified to the now permitted KEYT-DT 250 kW ERP facilities, KCET-DT as D28 could increase its main-beam ERP to 510 kW without causing more than 0.1% of incremental interference to KEYT-DT. However, because CTSC specified its 340 kW maximized D59 facilities in its Form 381 Pre-election Certification Form, greater power cannot be requested at this stage of the DTV process. But, Figures 2 and 3 demonstrate that once the August 3, 2004, "Freeze Order" is lifted, and post-transition DTV stations are once again free to file for increased power facilities, greater power should be possible for KCET-DT as D28.[§] Finally, it should be noted that all of these studies are based on the distorted horizontal plane azimuth pattern, the OET-69 generic UHF elevation pattern, and using the "normal" FCC method of calculating the depression angles to cells under study; that is, it has not been necessary to resort to the more accurate use of station's actual main beam azimuth

[§] It is noted that since the TCD for KTLA-DT, D31, Los Angeles, is 1,000 kW ERP, and since KTLA-DT is similarly located at the Mt Wilson antenna farm, the normal limits on ERP vs HAAT given in Section 73.622(f)(8) of the FCC Rules are superseded by the Section 73.622(f)(5) "largest station in the market" rule. Thus, for the KCET-DT as D28 effective height of 926 meters (corresponding to the existing KCET, N28, Andrew Model 35E4 center-of-radiation height), the normal ERP limit of 154 kW for a HAAT of 926 meters does not apply.

Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments

pattern, actual elevation pattern, actual ebt, actual mbt (where used), and correctly calculated depression angles to cells under study.

Mexican Considerations

In the U.S.-Mexico DTV Letter of Understanding (LOU), DTV Channel 28 was assigned to Tijuana, Mexico. Data on the XHJK-DT, D28, facilities has only recently become available. A copy of that station's somewhat strange azimuth pattern is shown in the attached Figure 4. However, the Figure 1, 2 and 3 channel election OET-69 interference studies show that no incremental interference to the XHJK-DT facilities is predicted. While these studies consider only U.S. XHJK-DT population, and not Mexican population, it follows that if zero persons of incremental interference is caused to XHJK-DT cells in the U.S., there is also zero persons of incremental interference to XHJK-DT cells falling in Mexico, since those cells are a) closer to the XHJK-DT transmitter and b) even further from KCET-DT as D28.

Summary

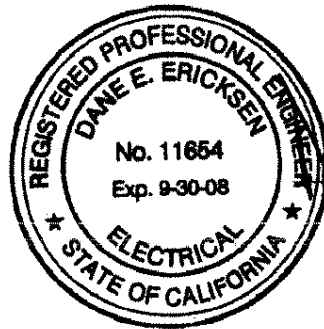
The Seventh FNPRM assigned CTSC its requested D28 for the post-transition KCET-DT operation, but at a power level of only 107 kW ERP (DA). To achieve the maximized footprint specified in its Form 381 Pre-Election Certification filing, KCET-DT needs a higher ERP of 190 kW. This higher power would cause less than 0.1% incremental interference to both KFTR-DT, TCD29 and to KEYT-DT, TCD27. Finally, the post-transition operation of KCET-DT as D28 at 190 kW ERP (DA) would cause no incremental interference to the U.S. side of the XHJK-DT, D28, Tijuana, post-transition coverage. For these reasons the Report & Order (R&O) to the Seventh FNPRM should assign a higher power of 190 kW ERP (DA) to KCET-DT's post-transition operation.

**Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments**

List of Figures

In carrying out these engineering studies, the following attached figures were prepared under my direct supervision:

1. Channel election conflict study for KCET-DT as D28 at 190 kW ERP (DA)
2. Channel election conflict study for KCET-DT as D28 at 302 kW ERP (DA)
3. Channel election conflict study for KCET-DT as D28 at 510 kW ERP (DA), and the KEYT-DT TCD29 modified to the 250 kW ERP (DA) KEYT-DT modified CP facilities
4. XHJK-TV, D28, azimuth pattern.




Dane E. Ericksen, P.E.

January 5, 2007

**Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments**

**Post-Transition OET-69 Interference Study for KCET-DT at 190 kW ERP (DA)
Based on HPLANE Azimuth Pattern and OET-69 Generic Elevation Pattern**

OET-69 Interference Analysis, 2000 Census
tvstudy v3.2.12

Channel-election conflict study, in-core only, DTV protection only

This interference study is based on 1.00 x 1.00 kilometer cells and terrain profiles with 10.0 points per kilometer. FCC processing using these finer-resolution parameters is hereby requested, pursuant to the Commission's August 10, 1998, Public Notice, "Additional Application Processing Guidelines for DTV."

Default emission mask for digital Class A and LPTV/translator records: simple

Before case parameters:
(same as original below)

After case parameters:

	--Modified-----	--Original-----
Station:	D28 KCET TCD	D28 KCET TCD
City:	LOS ANGELES, CA	LOS ANGELES, CA
Facility ID:	13058	13058
Coordinates:	N 34-13-26.0	N 34-13-26.0
	W 118-03-43.8	W 118-03-43.8
Height AMSL:	1825.5 m	1812.0 m
Maximum ERP:	190 kW	107 kW
Azimuth pattern:	kcetN28.17555az.pat	REP-REPLICATION
Orientation:	0.0	0.0
Elevation pattern:	OET-69 generic	OET-69 generic
Service level:	40.1 dBu	40.1 dBu

Protected station	Base Pop	Before		After		%Chng
		IX Change	%Base	IX Change	%Base	
D27 KEYT-TV TCD SANTA BARBARA, CA	1,326,950	23,649	1.8	22,338	1.7	-0.10
D28 KMPH-TV TCD VISALIA, CA	1,433,142	-680	-0.0	-680	-0.0	0.00
D29 KFTR-TV TCD ONTARIO, CA	14,597,676	-65,530	-0.4	-60,395	-0.4	0.04
N25nA KNET-LP LIC LOS ANGELES, CA	4,910,276	18	0.0	18	0.0	0.00
N26zA KSFV-LP LIC SAN FERNANDO VA, CA	1,104,997	586,652	53.1	586,652	53.1	0.00
N28+A K28FK LIC SAN LUIS OBISPO, CA	201,480	205	0.1	205	0.1	0.00

[continued on next page]

**Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments**

**Post-Transition OET-69 Interference Study for KCET-DT at 190 kW ERP (DA)
Based on HPLANE Azimuth Pattern and OET-69 Generic Elevation Pattern**

Modified record parameters:

-----Modified-----
Station: D28 XHJK-DT GRANT
City: TIJUANA, MEXICO
Facility ID: n/a (Mexican DTV)
Coordinates: N 32-30-08.0
W 117-02-21.0
Height AMSL: 375.0 m
Maximum ERP: 550 kW
Azimuth pattern: xhjkD28az.pat
Orientation: 0.0
Elevation pattern: OET-69 generic
Service level: 40.1 dBu

Note: The results of the OET-69 algorithm are dependent on the use of computer databases and complex software algorithms, which may vary between computer platforms and installations. Also, while Hammett & Edison, Inc. endeavors to follow official releases and established precedents on the matter, FCC policy on DTV analysis methods changes from time to time. Thus, the results of OET-69 interference and coverage studies are subject to change and may differ from FCC results.

**Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments**

**Post-Transition OET-69 Interference Study for KCET-DT at 302 kW ERP (DA)
Based on HPLANE Azimuth Pattern and OET-69 Generic Elevation Pattern**

OET-69 Interference Analysis, 2000 Census
tvstudy v3.2.12

Channel-election conflict study, in-core only, DTV protection only

This interference study is based on 1.00 x 1.00 kilometer cells and terrain profiles with 10.0 points per kilometer. FCC processing using these finer-resolution parameters is hereby requested, pursuant to the Commission's August 10, 1998, Public Notice, "Additional Application Processing Guidelines for DTV."

Default emission mask for digital Class A and LPTV/translator records: simple

Before case parameters:
(same as original below)

After case parameters:

	--Modified-----	--Original-----
Station:	D28 KCET TCD	D28 KCET TCD
City:	LOS ANGELES, CA	LOS ANGELES, CA
Facility ID:	13058	13058
Coordinates:	N 34-13-26.0	N 34-13-26.0
	W 118-03-43.8	W 118-03-43.8
Height AMSL:	1825.5 m	1812.0 m
Maximum ERP:	302 kW	107 kW
Azimuth pattern:	kcetN28.17555az.pat	REP-REPLICATION
Orientation:	0.0	0.0
Elevation pattern:	OET-69 generic	OET-69 generic
Service level:	40.1 dBu	40.1 dBu

Protected station	Base Pop	Before		After		%Chng
		IX Change	%Base	IX Change	%Base	
D27 KEYT-TV TCD SANTA BARBARA, CA	1,326,950	23,649	1.8	24,541	1.8	0.07
D28 KMPH-TV TCD VISALIA, CA	1,433,142	-680	-0.0	-680	-0.0	0.00
D29 KPTR-TV TCD ONTARIO, CA	14,597,676	-65,530	-0.4	-55,355	-0.4	0.07
N25na KNET-LP LIC LOS ANGELES, CA	4,910,276	18	0.0	18	0.0	0.00
N26za KSFV-LP LIC SAN FERNANDO VA, CA	1,104,997	586,652	53.1	586,652	53.1	0.00
N28+A K28FK LIC SAN LUIS OBISPO, CA	201,480	205	0.1	205	0.1	0.00

[continued on next page]

**Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments**

**Post-Transition OET-69 Interference Study for KCET-DT at 302 kW ERP (DA)
Based on HPLANE Azimuth Pattern and OET-69 Generic Elevation Pattern**

Modified record parameters:

--Modified-----
Station: D28 XHJK-DT GRANT
City: TIJUANA, MEXICO
Facility ID: n/a (Mexican DTV)
Coordinates: N 32-30-08.0
W 117-02-21.0
Height AMSL: 375.0 m
Maximum ERP: 550 kW
Azimuth pattern: xhjkD28az.pat
Orientation: 0.0
Elevation pattern: OET-69 generic
Service level: 40.1 dBu

Note: The results of the OET-69 algorithm are dependent on the use of computer databases and complex software algorithms, which may vary between computer platforms and installations. Also, while Hammett & Edison, Inc. endeavors to follow official releases and established precedents on the matter, FCC policy on DTV analysis methods changes from time to time. Thus, the results of OET-69 interference and coverage studies are subject to change and may differ from FCC results.

**Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments**

**Post-Transition OET-69 Interference Study for KCET-DT at 510 kW ERP (DA)
Based on HPLANE Azimuth Pattern and OET-69 Generic Elevation Pattern
Based on KEYT-DT, D27, Santa Barbara TCD Modified to 250 kW ERP (DA) CP Facilities**

OET-69 Interference Analysis, 2000 Census
tvstudy v3.2.12

Channel-election conflict study, in-core only, DTV protection only

This interference study is based on 1.00 x 1.00 kilometer cells and terrain profiles with 10.0 points per kilometer. FCC processing using these finer-resolution parameters is hereby requested, pursuant to the Commission's August 10, 1998, Public Notice, "Additional Application Processing Guidelines for DTV."

Default emission mask for digital Class A and LPTV/translator records: simple

Before case parameters:
(same as original below)

After case parameters:

	--Modified-----	--Original-----
Station:	D28 KCET TCD	D28 KCET TCD
City:	LOS ANGELES, CA	LOS ANGELES, CA
Facility ID:	13058	13058
Coordinates:	N 34-13-26.0	N 34-13-26.0
	W 118-03-43.8	W 118-03-43.8
Height AMSL:	1825.5 m	1812.0 m
Maximum ERP:	510 kW	107 kW
Azimuth pattern:	kcetN28.17555az.pat	REP-REPLICATION
Orientation:	0.0	0.0
Elevation pattern:	OET-69 generic	OET-69 generic
Service level:	40.1 dBu	40.1 dBu

Protected station	Base Pop	Before		After		%Chng
		IX Change	%Base	IX Change	%Base	
D27 KEYT-TV TCD* SANTA BARBARA, CA	1,326,950	231,671	17.5	232,527	17.5	0.06
D28 KMPH-TV TCD VISALIA, CA	1,433,142	-680	-0.0	-680	-0.0	0.00
D29 KFTR-TV TCD ONTARIO, CA	14,597,676	-65,530	-0.4	-52,256	-0.4	0.09
N25nA KNET-LP LIC LOS ANGELES, CA	4,910,276	18	0.0	18	0.0	0.00
N26zA KSFV-LP LIC SAN FERNANDO VA, CA	1,104,997	586,652	53.1	586,652	53.1	0.00
N28+A K28FK LIC SAN LUIS OBISPO, CA	201,480	205	0.1	205	0.1	0.00

* Record parameters modified

[continued on next page]

**Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments**

**Post-Transition OET-69 Interference Study for KCET-DT at 510 kW ERP (DA)
Based on HPLANE Azimuth Pattern and OET-69 Generic Elevation Pattern
Based on KEYT-DT, D27, Santa Barbara TCD Modified to 250 kW ERP (DA) CP Facilities**

Modified record parameters:

	--Modified-----	--Original-----
Station:	D27 KEYT-TV TCD	D27 KEYT-TV TCD
City:	SANTA BARBARA, CA	SANTA BARBARA, CA
Facility ID:	60637	60637
Coordinates:	N 34-31-32.0	N 34-31-32.0
	W 119-57-28.0	W 119-57-28.0
Height AMSL:	1252.0 m	1265.0 m
Maximum ERP:	250 kW	699 kW
Azimuth pattern:	keytD27cp.73232az.pat	rep-CASANTA_BARB27
Orientation:	0.0	0.0
Elevation pattern:	OET-69 generic	OET-69 generic
Service level:	40.0 dBu	40.0 dBu

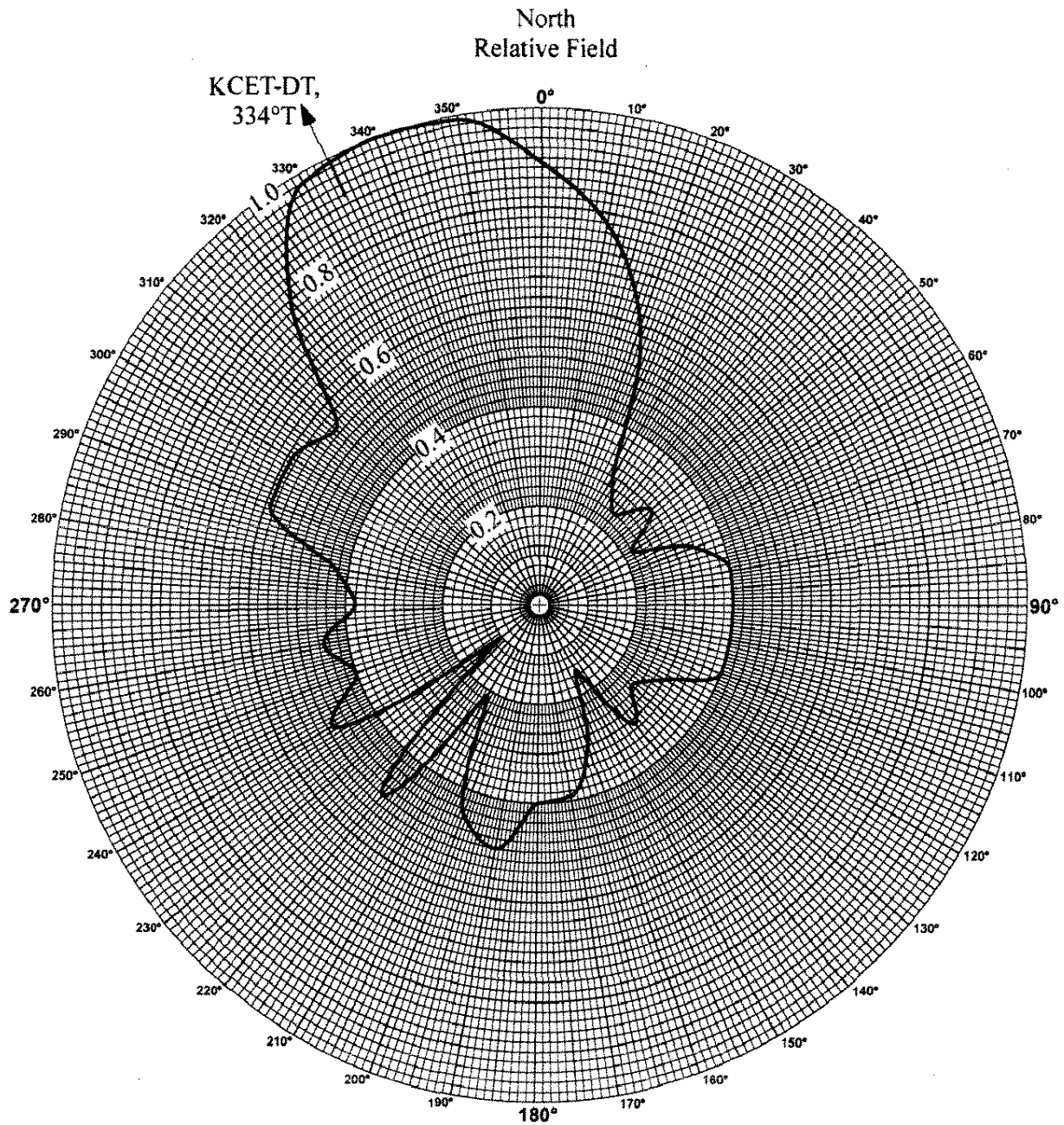
Modified record parameters:

	--Modified-----
Station:	D28 XHJK-DT GRANT
City:	TIJUANA, MEXICO
Facility ID:	n/a (Mexican DTV)
Coordinates:	N 32-30-08.0
	W 117-02-21.0
Height AMSL:	375.0 m
Maximum ERP:	550 kW
Azimuth pattern:	xhjkD28az.pat
Orientation:	0.0
Elevation pattern:	OET-69 generic
Service level:	40.1 dBu

Note: The results of the OET-69 algorithm are dependent on the use of computer databases and complex software algorithms, which may vary between computer platforms and installations. Also, while Hammett & Edison, Inc. endeavors to follow official releases and established precedents on the matter, FCC policy on DTV analysis methods changes from time to time. Thus, the results of OET-69 interference and coverage studies are subject to change and may differ from FCC results.

Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments

XHJK-DT, D28 Tijuana
Azimuth Pattern



Source: FCC International Bureau.

Station KCET-DT • as DTV Channel 28 • Los Angeles, California
MB Docket 87-268 Seventh FNPRM Comments

Relative Field Tabulation
for XHJK-DT Azimuth Pattern

Azimuth °T	Relative Field	Azimuth °T	Relative Field
0°	0.89	180	0.40
10	0.78	190	0.50
20	0.60	200	0.45
30	0.30	210	0.21
40	0.24	220	0.50
50	0.30	230	0.10
60	0.22	240	0.49
70	0.34	250	0.40
80	0.40	260	0.45
90	0.40	270	0.38
100	0.40	280	0.43
110	0.40	290	0.59
120	0.30	300	0.59
130	0.25	310	0.55
140	0.31	320	0.52
150	0.15	330	0.80
160	0.30	340	1.00
170	0.39	350	0.99

Source: FCC International Bureau.

Exhibit B

Letter Reserving Rights to Construct Maximized Facilities

Exhibit B

Letter Reserving Rights to Construct Maximized Facilities

STAMP AND RETURN

ARNOLD & PORTER LLP

Maureen R. Jeffreys
Maureen_Jeffreys@aporter.com

202.942.6808
202.942.5999 Fax

555 Twelfth Street, NW
Washington, DC 20004-1206

October 7, 2005

VIA HAND DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

RECEIVED

OCT - 7 2005

Federal Communications Commission
Office of Secretary

Re: KCET-DT, Los Angeles, California
Tentative Digital Channel Designation

Dear Ms. Dortch:

Community of Television of Southern California ("CTSC"), licensee of noncommercial educational television Station KCET, NTSC Channel 28/DTV Channel 59, hereby requests that the Commission reinstate CTSC's original request for maximized facilities for KCET-DT in the event that Smith Broadcasting of Santa Barbara LP ("Smith"), permittee of Station KEYT-DT, does not construct its full authorized facilities by the applicable "use-it-or-lose it" deadline of July 1, 2006.

On October 4, 2005, the Commission issued a public notice of tentative digital channel designations.¹ CTSC received the tentative digital channel designation of Channel 28. In order to receive this channel designation and remain on its only in-core channel following the digital transition, CTSC had to resolve predicted interference to Station KEYT-DT, D27, Santa Barbara, California. CTSC resolved this "interference conflict" by amending Schedule B of its DTV Conflict Resolution form to specify Station KCET-DT's replication facilities, rather than its permitted maximized facilities. (File No. BFR CET-20050815ABG, amended Sept. 19, 2005).²

¹ See *Tentative Digital Channel Designations for Stations Participating in the First Round DTV Channel Elections and Second Rough Election Filing Deadline*, Public Notice, DA 05-2649 (Oct. 4, 2005).

² In its original DTV Conflict Resolution form, CTSC sought to demonstrate that Station KCET-DT would cause less than 2% interference to Station KEYT-DT by using the alternative showing approved by the Commission for use in certain situations in

ARNOLD & PORTER LLP

Ms. Marlene H. Dortch
October 7, 2005
Page 2

The Commission predicted that Station KCET's DTV operation on Channel 28 would cause 2.3% interference to Station KEYT-DT, only 0.3% above the relaxed standard announced for one-in-core licensees like CTSC.³ This interference prediction was based on Station KEYT-DT's 1000 kW ERP maximized facilities. (File No. BMPCDT-20010126ABE). However, Smith has not yet completed construction of these maximized facilities. Presently, Smith is only operating Station KEYT-DT at an ERP of 250 kW pursuant to a special temporary authorization, (File No. BEDSTA-20050727AMX)⁴, and is subject to the "use-it-or-lose it" deadline of July 1, 2006.

Since it is not clear that Smith will construct its full authorized facilities, CTSC believes it does not serve the public interest to limit Station KCET-DT to its replication facilities rather than its maximized facilities if Smith fails to construct its 1 megawatt station. Limiting Station KCET-DT to its replication facilities in these circumstances will only deny free over-the-air public television service to audiences for no offsetting benefit. Accordingly, CTSC requests that the Commission reinstate CTSC's original request for Station KCET-DT's maximized facilities (340 kW ERP at a HAAT of 913 m, see File No. BMPEDT-20000428ADF, equivalent to 191 kW ERP on DTV Channel 28) or such improved facilities as would cause no more than 2.0% predicted interference to Station KEYT-DT's operating facilities as of July 1, 2006,⁵ or grant CTSC such other relief as may be appropriate to improve its facilities as proposed here.

paragraph 66 of its 2001 DTV Report & Order. See *In re Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd. 5946, ¶ 66 (2001); see also Letter from Maureen R. Jeffreys, Counsel for CTSC, to Nazifa Sawez, FCC Media Bureau, dated August 15, 2005. The Media Bureau staff indicated that CTSC's use of this alternative methodology would be denied, and to avoid the risk of losing its only in-core channel by waiting until the second round election cycle, CTSC amended its DTV Conflict Resolution form to propose its replication facilities rather than its grandfathered maximization proposal.

³ See *DTV Channel Election: First Round Conflict Decision Extension and Guidelines for Interference Conflict Analysis*, Public Notice, DA 05-2233 (Aug. 2, 2005).

⁴ See also KEYT-TV/DT Engineering Data, available at http://svartifoss2.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/eng_tv.pl?Facility_id=60637.

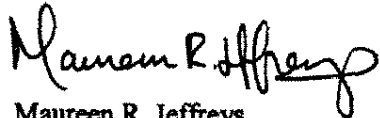
⁵ CTSC believes that it will be able to make this showing if Smith does not increase Station KEYT-DT's power above the power level at which it is currently operating.

ARNOLD & PORTER LLP

Ms. Marlene H. Dortch
October 7, 2005
Page 3

If you have any questions concerning this matter, please let me know.

Sincerely,



Maureen R. Jeffreys
Counsel for Community Television of
Southern California

cc: Rick Chessen, Esq. (by email)
Ms. Nazifa Sawez (by email)
Mr. Gordon Godfrey (by email)
Susan E. Reardon, Esq. (by email)
Theodore D. Frank, Esq.

**Declaration of
Susan Erburu Reardon**

I, Susan Erburu Reardon, am Executive Vice President and General Counsel of Community Television of Southern California ("CTSC"). I have been involved in my official capacity in CTSC's digital television efforts and activities since I joined CTSC in 1997. I have read the attached Petition for Reconsideration of the decision of the Federal Communications Commission denying CTSC's request for an extension of time to complete construction of its maximized DTV facilities. The statements contained in that Petition concerning CSTC are true and correct to the best of my information, knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on th12 day of June, 2007.


Susan Erburu Reardon

Certificate of Service

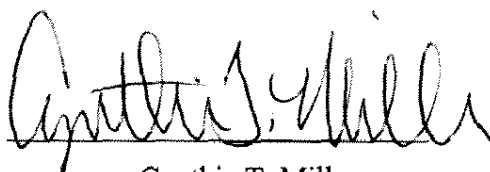
I, Cynthia T. Miller, do hereby certify that I have this 18th day of June, 2007, caused to be sent by first class mail, postage prepaid, the attached Petition for Reconsideration of Community Television of Southern California to:

Scott Patrick, Esq.
Dow, Lohnes & Albertson
Suite 800
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036
Counsel for Smith Media License Holdings

Eloise Gore, Esq.*
Assistant Division Chief
Policy Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Shaun A. Maher, Esq.*
Video Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Clay Pendarvis, Esq.
Associate Division Chief
Video Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554



Cynthia T. Miller

* By first-class mail and e-mail.